FILED
MAR 2 0 2000
CLERK

(3)

No. 99-1340

In The

Supreme Court of the United States

AUBREY WHELCHEL,

Petitioner,

vs.

CITY OF COVINGTON, GEORGIA,
CITY COUNCIL OF COVINGTON,
JIM BERRY, in his official and individual capacity,
JOHN M. GTT, in his official capacity,
SUPERIOR COURT OF NEWTON COUNTY,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE ELEVENTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI
PETITIONER'S REPLY BRIEF

Aubrey Whelchel
Petitioner, In Propria Persona
1193 College Avenue
Covington, GA 30209
(770)786-2273

2100

LIST OF INTERESTED PARTIES

Pursuant to Rule 14.1(b) of the Supreme Court Rules, Aubrey Whelchel, hereby identifies those persons, associations of persons, or other entities that are, or may be interested in the outcome of this case.

Parties to this Petition:

Aubrey Whelchel	Plaintiff/Petitioner
City of Covington,	Defendant/Respondent
City Council of Covington	Defendant/Respondent
John M. Ott, Superior Court Judge	Defendant/Respondent
Superior Court of Newton County	Defendant/Respondent
Jim Berry	Defendant/Respondent

TABLE OF CONTENTS

	Page
List of Interested Parties	i
Table of Contents	ii
Table of Cited Authorities	iii
Supplemental Appendix	v
Petitioner's Reply Brief	1
A. Erroneous Allegations of Fact in Respondent's Argument	1
B. Alternative Avenue of Relief Under State Law	2
C. The Rooker-Feldman Doctrine Application to the Case	3
D. Petitioner's Claims Under Title 42 § 1983	7
Conclusion	10

TABLE OF CITED AUTHORITIES

Cases: Page

Agripost, Inc. v. Miami-Dade County, 195 F.3d. 1225 (11th Cir. 1999) 3

*Bickerstaff Clay P*roduction Co. v. Harris County Georgia 89 F.3d 1481 (11th Cir. 1996) 3

Bonner v. Coughlin, 517 F.2d 1311 (7th Cir. 1975) 8

Conner v. City of Santa Ana, 879 F.2d 1487 (9th Cir.) Cert. denied, 498 U.S. 816 (1990). 9

Dougherty County v. Snelling, 132 Ga. App. 540 (1974) . 4

G.M. Leasing Corp. v. United States, 429 U.S. 338 (1977) 10

Green v. State, 230 Ga. 756 (1973) 4

Johnson v. State, 142 Ga. App. 526 (1972) 4

Long v. Dalton, 228 Ga. App. 539 (1972) 4

Long County Bd. Of Ed. V. Owen, 150 Ga. App. 245 (1979) 4

Hudson v. Palmer, 468 U.S. 517 (1984) 8

Matthews v. Eldridge, 424 U.S. 319 (1976) 9

McKinney v. Pate, 985 F.2d 1502 (11th Cir. 1993) 10

Monell v. Department of Social Services of the City of of New York, 436 U.S. 658 (1978) 7

Mullane v. Central Hanover Bank & Trust Co. 339 U.S. 306 (1950) 9

Palko v. Connecticut, 302 U.S. 319 (1937) 10

Pratt v. Taylor, 451 U.S. 527 (1981) 7

Cited Authorities

	Page
Pulliam v. Allen 466 U.S. 522 (1984)	6, 7
Rawlings v. Kentucky, 448 U.S. 98 (1980)	9
Riggins v. Board of Regents, 790 F.2d 707 (8th Cir. 1986)	9
Rochin v. California, 342 U.S. 165 (1952)	10
Rooker v. Fidelity Trust Co., 44 S.Ct. 149 (1923)	7, 8
Soldal v. Cook County, 506 U.S. 56 (1992)	9
Stern v. Nix, 840 F.2d 208 (3rd Cir.) cert. denied, 488 U.S. 826, (1988)	10
United States v. Salerno, 481 U.S. 739 (1987)	18
West v. Atkins, 487 U.S. 42 (1988)	7
Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City, 437 U.S. 172 (1985)	8
Wood v. Orange County, 715 F.2d 1543 (11th Cir. 1983).	7
Zinermon v. Burch, 494 U.S. 113 (1990)	8
Zuber Lumber Co. v. City of Atlanta, 237 Ga. 358 (1976)	4
Statutes:	
Federal	
42 U.S.C. § 1983	7, 9
Other:	
Rooker-Feldman doctrine	1, 3

SUPPLEMENTAL APPENDIX

Page

Citation and Summons Issued by the Recorders Court of Covington . . . . . 1.

Covington Code, Article III. Unfit Building or Structures . . . . . 2.

Order of the Superior Court of Newton County Dated July 21, 1997 . . . . . 3.

Comes now Aubrey Whelchel, the Petitioner in this case, and files Petitioner's Reply Brief and Shows the Honorable Court as follows:

A. Erroneous Allegations of Fact in Respondents' Argument

Petitioner would first address the Respondents' erroneous allegations of fact inserted into Respondents' brief, to wit:

In Section "**I Introduction**" of the Respondents' brief, Respondents have advanced the following statement:

"The Eleventh Circuit correctly decided that Petitioner's federal civil rights claims, brought following his ***loss of a zoning issue*** in state Superior Court, is barred by the Rooker-Feldman doctrine. Petitioner's pursuant to claims in federal court necessarily call into question the ***judgment of the state Superior Court on the zoning issue***, and the issues involved in Petitioner's federal claims are inextricably intertwined with the state court ruling. Adequate state court remedies also exist to redress Petitioner's concerns. For these reasons, Petitioner's Petition for Writ of Certiorari should be denied." (Page 3, of Respondents' Brief in Opposition to Petition for Writ of Certiorari)(Emphasis Added).

The appeal proceedings before the state Superior Court ***did <u>not</u>*** relate in any manner whatsoever to a ***"zoning issue"*** as advanced in Respondents' brief.

In Section **"II" The Rooker-Feldman doctrine is controlling in the instant case, and bars Petitioner's claims from federal court"** the Respondents have advanced that "Federal court review of these claims would necessarily require ***inspecting the same evidence presented*** to the Municipal Court in consideration ***of the zoning issue***. ***Claims related to the destruction of the actual houses are legally equivalent to claims challenges the zoning violations judgment*** and dismissal of the appeal of that judgment. ***The houses were destroyed as a procedural result of the zoning violations***." Respondents' Brief at Page 5. (Emphasis Added).

The proceedings which arose in the Municipal Court of the City of Covington, ***did <u>not</u>*** relate in any manner whatsoever to "zoning" issues as advanced in Respondents' brief whatsoever.

Again, for the second time the Respondents have improperly

interjected into the legal matters that the issues in the lower courts were "zoning" issues when this is absolutely untrue. The proceeding in the lower court [Municipal Court of the City of Covington] related to building code violation and had absolutely nothing to do with "zoning" issues which the Respondents' have improperly interjected and repeatedly implied in their brief.

Respondents, for the third time, in Section "**V Conclusion**" advance that "Petitioner's claims of constitutional violation stem from the judgments of state courts ***in his zoning dispute*** with the City. Review of those constitutional claims would not only touch upon the state judgments, but directly review the state decisions and issues inextricably intertwined withthem. Petitioner's claims are properly brought before a state court of appellate jurisdiction, as they ***involve the propriety of the application of state zoning*** and inverse condemnation laws in his case. Under Rooker-Feldman doctrine, the federal district court is without jurisdiction to hear Petitioner's claims, and under Williamson County Regional Planning Commission v. Hamilton Bank, Petitioner's takings claimed are bared for want of ripeness."

Throughout Respondents' brief they deliberately and wilfully attempt to mislead the Honorable Court by advancing that there are "zoning" issues when there were no such claims or proceedings ever having occurred whatsoever.

Petitioner respectfully advances that the Respondents' claims of zoning issues are materially false and inserted into the Respondents' brief to deliberately and wilfully mislead the Honorable Court in its review and consideration of Petitioner's Petition for Certiorari.

B. Alternative Avenues of Relief Under State Law

Petitioner duly requests the Honorable Court to note that the Respondents have totally failed and/or refused to address Petitioner's legal argument to the Honorable Court concerning the use of Georgia's Inverse Condemnation statutes as a proper legal vehicle to avoid liability.

Respondents have totally avoided addressing Petitioner's legal argument that Georgia's inverse condemnation statutes cannot be legally utilized for the purposes advanced by the Respondents. Petitioner respectfully advances that the Respondents' failure to address Petitioner's

legal challenge to Georgia's inverse condemnation statutes, constitutes an admittance by the Respondents that Georgia's inverse condemnation statutes cannot be legally utilized for the purposes for which the Respondents have advanced them as an alternative avenues of relief.

Respondents have advanced a number of cases in support their position. However, the issues in those cases are clearly not on point to the facts of the case.

Respondents have advanced the decision by this Court in **Williamson County Regional Planning Commission v. Hamilton Bank**, 473 U.S. 172, 194, 105 S.Ct. 3108, 3120-22 (1985), as applicable. The only point in **Williamson** which relates to the case at bar is the fact that it addresses the issue of a party utilizing Tennessee's procedures. Tennessee provides for obtaining just compensation. It is presumed that the Respondents utilization of **Williamson** is for their position that Georgia's inverse condemnation statutes are germane to the Petitioner's claims which they are not.

Respondents have also advanced **Agripost, Inc., v. Miami-Dade County**, 195 F.3d 1225 (11th Cir. 1999) and **Bickerstaff Clay Production Co. v. Harris County, Georgia**, 89 F.3d 1481 (11th Cir. 1996), which both cases are zoning issues which addresses that parties must utilize state procedures for obtaining compensation.

Petitioner respectfully advances that Georgia's inverse condemnation statutes cannot be utilized for the purposes proposed by the Respondents. Georgia's inverse condemnation statutes were passed for specific purposes and were not legally intended for the purposes for which the Respondents have attempted to utilize then in defense of Petitioner's claims and as approved by the district court.

C. The Rooker-Feldman Doctrine Application to the Case

Petitioner's federal civil rights claims rested on specific acts and actions by the Respondents, to wit:

When the Plaintiff filed the hand written appeal and it was filed and accepted by the Clerk of the Superior Court of Newton County, then the Respondents were barred from destroying the Plaintiff's property because the appeal from the judgment of the City Council and the

Municipal Court of the City of Covington was not yet final. **Dougherty County v. Snelling**, 132 Ga. App. 540 (1974); **Zuber Lumber Co. v. City of Atlanta**, 237 Ga. 358 (1976). It is Petitioner's position that the decision rendered by the City Council of the City of Covington and the Municipal Court of the City of Covington was not final until thirty (30) days of the judgment rendered by Respondent Ott ***on July 21, 1997***. Hence, the destruction of the Petitioner's houses ***in August, 1996***, by the City of Covington and the named Respondents constitutes and are acts that occurred without legal authority.

Petitioner **sued the Respondents for entering Petitioner's property, while Petitioner was upon appeal and destroyed Petitioner's two houses**. It is Petitioner's position that the Respondents were without legal authority to enter and destroy Petitioner's two houses while the Petitioner's appeal was pending. Petitioner respectfully asserts that Petitioner's appeal stripped Respondents from any legal or lawful authority which authorized or granted them authority to enter and destroy Petitioner's two houses.

Petitioner respectfully advances that when the Respondents entered Petitioner's property and destroyed both houses, **that they were acting outside their legal and lawful authority** and by such acts and actions were liable to Petitioner in their official and individual capacities pursuant to Title 42. U.S.C. § 1983.

The destruction of the Plaintiff's property in August of **1996**, some eleven months prior to the dismissal by Respondent Ott, entered on July 21, **1997**, mooted, for all intents and purposes any appeal. Notwithstanding the fact that Petitioner did not find out about the dismissal until after the appeal period had expired in which to appeal Respondent Ott's dismissal constitutes a violation of due process.

Petitioner respectfully advances that a party charged with quasi-criminal proceedings do not have the right to litigate civil rights violations or raise civil claims or counterclaims in those types of proceedings. Likewise, a party cannot raise or litigate issues upon the appellate plateau which were not raised in the lower court. See **Green v. State**, 230 Ga. 756 (1973); **Long v. Dalton**, 228 Ga. 539 (1972); **Long County Bd. Of Ed. v. Owen**, 150 Ga. App. 245 (1979); **Johnson v. State**, 142 Ga. App. 526 (1972).

Therefore, Petitioner was legally barred from raising any claims concerning the destruction of Petitioner's houses in appellate courts of Georgia based upon the fact that the proceedings were quasi-criminal in nature which do not accord a defendant to raise counterclaims and/or prosecute civil rights claims in such proceedings.

Petitioner further contends that the Rooker-Feldman doctrine does not apply because Petitioner could not, based upon the fact that the pending appeal was quasi-criminal, raise or litigate the destruction of the Petitioner's two houses under and pursuant to the "reasonable opportunity" to bring such a claim in the state court proceeding. Petitioner further asserts such opportunity was lacking because: (1) the destruction of the houses were not pursuant to the proceedings in the Superior Court and the Superior Court never heard motions nor executed any orders relating to Petitioner's appeal and (2) because the proceedings were quasi-criminal and there is no present legal grounds to raise, claim or otherwise have the Superior Court address the destruction of Petitioner's houses by the Respondents with any basis for relief by the Superior Court which could be granted. Petitioner asserts that the destruction of the Petitioner's two houses effectively mooted the Petitioner's appeal. The present laws of the State of Georgia do not provide or allow a quasi-criminal proceedings to invoke civil counterclaims much less allows such quasi-criminal defendants to raise or seek damages against those who are prosecuting the case for the state and seek monetary damages or other types of monetary relief.

Respondents advance that the "[Petitioner] got as far as the Superior Court, choosing not to timely appeal to the Georgia Court of Appeals or the Georgia Supreme Court, which ever was the appropriate forum for his allegations." Respondents have failed to acknowledge that since the two houses were destroyed that an appeal to either the Court of Appeal or the Georgia Supreme Court would be moot because the Respondents had already destroyed the houses in question. This is not disregarding the fact that record shows that Petitioner was not informed of the dismissal until after the appeal period had lapsed is highly germane to the Respondents' claims of not pursuing an appeal of the dismissal entered by the Superior Court.

In Section "II", the Respondents have advanced that "The relief Petitioner sought from the Northern District of Georgia would have necessitated a review of the Newton County Superior Court's ***final judgment***.

While Petitioner, in support of his federal civil rights suit, Petitioner alleged in his Complaint that the Superior Court Judge Ott did 'dismiss Plaintiff's appeal so as to deprive Plaintiff of such constitutional rights' this was merely advanced as factual background and not a claim by which Petitioner sought the district court to review or reverse.

Petitioner respectfully advances that the Superior Court never made any adjudication of the merits of Petitioner's appeal before him, but held a secret meeting with the city attorney and dismissed Petitioner's appeal without notice or other procedural rights being accorded to Petitioner.

Respondents have advanced in their brief that "... ***the lower court decision was never appealed all the way up to the Georgia appellate chain***. Only if Petitioner had been denied relief by the Georgia Supreme Court could a federal court exercise subject matter jurisdiction over the claims . . ." (Respondents' Brief at Page 6.)

The reason that Petitioner never appealed the dismissal by the state Superior Court is because Petitioner was never informed of the dismissal until after the time to perfect an appeal could be had and therefore, Petitioner could not pursue his state remedies as advanced by the Respondents in their brief, because the Respondents withheld the information about the secret meeting and dismissal of Petitioner's appeal ***until after the appeal period had lapsed***.

While Judge Ott's dismissal of Petitioner's appeal did constitute a violation of Petitioner's constitutional rights, Petitioner sought no relief from Judge Ott's dismissal, ***only injunctive relief*** so as to enjoin him from further acts and actions against others that would appear before him. Upon that basis is which Petitioner sought relief pursuant to **Pulliam v Allen**, 466 U.S. 522 (1984).

This is precisely the basis for which this Court anchored its rulings and judgment in **Pulliam**, so that a party can seek injunctive relief against a court which violated constitutional rights. It is Petitioner's position that the basis that the Honorable Court rendered its determination in **Pulliam** which give legal breath of life to the Petitioner's claims against Respondent Ott and the Superior Court, that being to enjoin them from the same acts and actions against others that were committed against the Petitioner.

Obviously this Court's decision in ***Pulliam*** directly deals with the

legal principles as advanced by this Court pursuant to the Rooker-Feldman Doctrine and therefore, Petitioner respectfully moves for the Honorable Court to further define exactly where the legal line is drawn in the legal sands for the federal judiciary to clearly use as a measuring line to see if this Court's decision in **Pulliam** can be invoked and where this Court's decisions pursuant to the Rooker-Feldman Doctrine trunicate and erase jurisdiction in civil rights suits pursuant to Title 42, U.S.C., Section 1983 and under **Pulliam**. It should also be noted by the Court that the issues in Pulliam dealt with not civil proceedings but traffic infractions which is criminal. This fact further reinforces Petitioner's reliance upon **Pulliam** to support Petitioner position.

D. Petitioner's Claims Under Title 42. U.S.C. § 1983

It is Petitioner's position that the instant case fall clearly under the Supreme Court's decision as rendered in **Monell v. Department of Social Services of the City of New York**, 436 U.S. 658 (1978). The **Monell** Court held that municipalities and other local governments may sometimes be sued under Section 1983. Thus, the United States Supreme Court in **Pratt v. Taylor**, 451 U.S. 527, 535 (1981), that there are "two essential elements" that a Plaintiff must prove in order to state a claim under Section 1983., to wit: [1] "[that] the conduct complained of was committed by a person acting under color of state law, and; [2] [that] this conduct deprived a person or rights, privileges, or immunities secured by the Constitution or laws of the United States." Accord, **West v. Atkins**, 487 U.S. 42 (1988). The Due process Clause of the Fourteenth Amendment provides that "[n]o State shall . . . deprive any person of life, liberty, or property without due process of law."

In the instant case, Petitioner filed a timely appeal to the Superior Court of Newton County and that appeal was docketed. At no time prior to the destruction of the two houses in question did any person or party for the City Counsel of Covington, nor the Municipal Court of the City of Covington, move for dismissal or other right to destroy the houses in question. In fact it was eleven months ***after their destruction*** of Petitioner's houses, that the Superior Court, pursuant to the non-existent motion to dismiss, dismissed Plaintiff's appeal.

Defendants content that the Petitioner's alleged Fifth Amendment rights are likewise vanquished because Petitioner has allegedly failed to utilize Georgia's provisions for obtaining just compensation. **Williamson County Regional Planning Commission v. Hamilton Bank of Johnson**

City, 437 U.S. 172 (1985). However, it is Petitioner's position, because of the fact that Petitioner had filed an appeal, and the Respondents destroyed the Petitioner's houses in the face of that appeal that the Petitioner's claims under a Section 1983, can stand and be heard against the Defendants.

The record is absolutely clear that the Petitioner filed an appeal which foreclosed the Respondents from taking any act or action as instituted as of June 3rd and 4th of 1996. However, in the face of Petitioner's legal appeal, the Respondents nevertheless entered Petitioner's property and destroyed the Petitioner's two houses. Respondents, some eleven months later, with the aid and console of Respondent Ott, attempted to protect their legal liability by having Petitioner's case dismissed pursuant to non-existent alleged motion to dismiss.

Petitioner advances that the acts and actions of the Respondents clearly falls within this Court's judgment as rendered in **Zinermon v. Burch**, 494 U.S. 113, 132, 110 S.Ct. 975, 986-87, 108 L.Ed.2d 100 (1990), where there is a right of a constitutional violation may be raised notwithstanding the adequacy of a predeprivation remedy, under § 1983, regardless of whether a post-deprivation remedy is also available.

While the Supreme Court has observed, "The state can no more anticipate and control in advance the ***random and unauthorized intentional conduct of its employees*** than it can anticipate similar negligent conduct." **Hudson v. Palmer**, 468 U.S. 517, 533, 104 S.Ct. 3194, 3203, 82 L.Ed.2d 393 (1984).

It is Petitioner's position that the **acts and actions of the Respondents were not random and unauthorized, but intentional, deliberate and wilful**. The Respondents knew, when they dispatched bull dozers to Petitioner's properties and thereinafter bull dozed Petitioner's two houses, that the Petitioner had filed an appeal and that the appeal was pending when they illegally entered Appellant's property and destroyed the houses in question. Hence the damage inflicted by the Respondents cannot avoid the conclusion that there has not been any constitutional deprivation of property without due process of law within the meaning of the Fourteenth Amendment. **Bonner v. Coughlin**, 517 F.2d 1311, 1319 (7th Cir. 1975)).

"The fundamental requirement of due process is the opportunity to be heard `at a meaningful time and in a meaningful manner.'" **Mathews v.**

Eldridge, 424 U.S. 319, 333, 96 S.Ct. 893, 902, 47 L.Ed.2d 18 (1976) (emphasis added) (citation omitted). In these circumstances, Petitioner had invoked his procedural due process objection to the Respondent's conduct by appealing the judgment to the Superior Court of which the Respondents received notice by the Petitioner. See **Riggins v. Board of Regents**, 790 F.2d 707, 712 (8th Cir. 1986).

After Petitioner tendered an appeal to the Superior Court, which the Respondents were aware of, clearly did not provide any basis for which the Respondents could have legal grounds to assume that they were authorized to appear at the Petitioner's two properties and bull doze each of the houses in question. Nor did the Respondents at any time prior to appearing upon Petitioner's property, notify the Petitioner that they would appear and would destroy each of the houses in question, so that the Petitioner could move for a restraining order from the Superior Court. See generally **Mullane v. Central Hanover Bank & Trust Co.**, 339 U.S. 306, 70 S.Ct. 652, 94 L.Ed. 865 (1950).

In light of the fact that the Respondents have not advanced that they were not aware of the fact that Petitioner had filed an appeal, the Court can easily find that the acts and actions of the Respondents were wilful and deliberate, which they committed with the knowledge that they were acting without legal authority in violation of Petitioner's civil rights pursuant to and in violation of Title 42 U.S.C. § 1983.

Petitioner relying upon **Soldal v. Cook County**, 506 U.S. 56, 113 S.Ct. 538, 121 L.Ed.2d 450 (1992), and **Conner v. City of Santa Ana**, 897 F.2d 1487 (9th Cir.), cert. denied, 498 U.S. 816, 111 S.Ct. 59, 112 L.Ed.2d 34 (1990), advances that the Respondents violated Petitioner's Fourth Amendment rights were violated when the Respondents appeared on the separate properties and destroyed each of the houses in question.

Had Petitioner not filed an appeal to the Superior Court than the question of the Respondent's destruction of each of the houses in question would have been under a different light and thus Petitioner had clearly taken the normal precautions to maintain his property and civil rights. **Rawlings v. Kentucky**, 448 U.S. 98, 105, 100 S.Ct. 2556, 2561, 65 L.Ed.2d 633 (1980). In these circumstances, the Fourth Amendment analysis and the Due Process analysis are "similar and yield[] a like result." **G.M. Leasing Corp. v. United States**, 429 U.S. 338, 352 n. 18, 97 S.Ct. 619, 628 n. 18, 50 L.Ed.2d 530 (1977).

The Respondents acts and actions clearly falls into the conduct that "shocks the conscience," or interferes with the rights "implicit in the concept of ordered liberty." **United States v. Salerno**, 481 U.S. 739, 746, 107 S.Ct. 2095, 2101, 95 L.Ed.2d 697 (1987) (quoting **Rochin v. California**, 342 U.S. 165, 172, 72 S.Ct. 205, 209, 96 L.Ed. 183 (1952), and **Palko v. Connecticut**, 302 U.S. 319, 325-26, 58 S.Ct. 149, 152, 82 L.Ed. 288 (1937)) When the Supreme Court invokes substantive due process, it does so to protect a "fundamental interest" or other wise to preclude the abusive exercise of government power. See **McKinney v. Pate**, 985 F.2d 1502 (11th Cir. 1993).

CONCLUSION

The state invoked the law against the Petitioner. It prosecuted Petitioner under those laws and found against the Petitioner. Petitioner appealed the judgment by the Municipal Court to the state Superior Court. While the Petitioner was upon appeal the Respondents came to the Petitioner's two properties and destroyed each of the houses in question. The Respondents have knowingly and wilfully violated Petitioner's civil rights and seek to hide from responsibility for their acts and actions.

The issues raised by Petitioner, pursuant to Petitioner's civil rights complaint were not intertwined with the state court decisions to the degree as advanced by the Eleventh Circuit Court of Appeals. The Superior Court never rendered a judgment or adjudicated any of the Petitioner's claims. Petitioner respectfully advances that Georgia's inverse condemnation statutes were not intended, designed, legislated or enacted to be utilized for the situation that occurred. The Respondents have violated Petitioner's civil rights and claim Georgia's inverse condemnation statutes provide Petitioner all that he is entitled to seek relief under. For the reasons stated above, this Court should grant this Petition for Certiorari, and should reverse the decisions rendered by the Eleventh Circuit Court of Appeals and the United States District Court.

Respectfully submitted,

Aubrey S. Whelchel
Petitioner, In Propria Persona
1193 College Avenue
Covington, GA 30209

SUPPLEMENTAL APPENDIX

BEST AVAILABLE COPY

SUPPLEMENTAL APPENDIX A - **EXAMPLE COPY** OF CITATION AND SUMMONS ISSUED BY THE RECORDERS COURT OF COVINGTON, GEORGIA EXACT DATE UNKNOWN

STATE OF GEORGIA
CITY OF COVINGTON

Docket No._____

IN THE RECORDERS COURT
OF THE COVINGTON, GEORGIA
CITATION AND SUMMONS

Citation No. 222

To: AUBREY WHELCHEL

Address: 1193 College St.
Covington, GA 30209

You are hereby commanded to be and appear at the City of Covington's Recorders Court located at 1123 Oak Street, Covington, Georgia at 10:00 o'clock A.M. X, P.M._____, on the 20 day of August, 1997. to answer the charge of: Failure to abate nuisance & maintain property
in violation of a City of Covington Municipal Code as follows:
Article III Sec. 12:120(B)

Place of Violation: 1193 College St.
Jim Berry, on the 22 day of July, 1997, at 4:00 o'clock A.M._____P.M. X.

Personally served this_____day of_____, 19_____.

Jim Berry
Issuing Officer

I personally acknowledge service and receipt of this Citation and Summons on this_____day of _____, 19_____.

(Certified Mail)

SUPPLEMENTAL APPENDIX B - COVINGTON CODE, ARTICLE III. UNFIT BUILDING OR STRUCTURES

ARTICLE III. UNFIT BUILDINGS OR STRUCTURES

Sec. 12-120. Statement of purposes.

(a) The mayor and council of the city hereby find that there exist in the city dwellings, buildings or structures which are unfit for human habitation or for commercial, industrial or business uses due to dilapidation and defects increasing the hazards of fire, accidents or other calamities; lack of adequate ventilation, light or sanitary facilities; or other conditions rendering such dwellings, buildings or structures unsafe or unsanitary, or dangerous or detrimental to the health, safety or welfare or otherwise inimical to the welfare of the residents of the city; or vacant, dilapidated dwellings, buildings or structures in which crimes are being committed, and that it is accordingly appropriate for the city to exercise its police power to repair, close or demolish the afore said dwellings, buildings or structures in the manner provided in Section 41-2-7 and Sections 41-2-8 through 41-2-17, O.C.G.A.

(b) All the provisions of this article, including method and procedure, may be also applied to private property where an accumulation of weeds, trash, junk, filth and other unsafe or unsanitary conditions shall create a public health hazard or general nuisance to those persons residing in the vicinity. A finding by the building inspector that such property is a health or safety hazard shall constitute prima facie evidence that such property is in violation of this article. (Ord. No. 1996-265, § 1m 4-16-96)

SUPPLEMENTAL APPENDIX C - ORDER OF THE SUPERIOR COURT OF NEWTON COUNTY DATED JULY 21, 1997

IN THE SUPERIOR COURT OF NEWTON COUNTY
STATE OF GEORGIA

CITY OF COVINGTON, Plaintiff,	:	CIVIL ACTION FILE NUMBER 96-001219-2
vs.	:	APPEAL FROM THE CITY OF COVINGTON MUNICIPAL
AUBREY S. WHELCHEL, Defendant.	:	COURT

ORDER

Before the Court is defendant's appeal of a ruling from the Municipal Court of Covington. Defendant has attempted to appeal the decision of the Municipal Court as a direct appeal rather than on a writ of certiorari. Plaintiff has moved the Court to dismiss defendant's appeal. Pursuant to O.C.G.A. § 5-4-1; and 5-4-3; and the cases of **Franklin vs. Recorder's Court, City of Albany**, 174 Ga. App. 498 (1985); and **City of Adairsville vs. Barton**, 159 Ga. App. 810 (1981), this Court GRANTS plaintiff's motion to dismiss defendant's appeal

So ordered this 21st day of July, 1997.

Signed John M. Ott
John M. Ott
Judge, Superior Courts
Alcovy Judicial Circuit